

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

IN RE: : **Bankruptcy No. 06-26877-TPA**
ROBERT STEPHEN YUHASZ and :
GRACE SMITH YUHASZ, : **Chapter 13**
Debtors. : **Related to Document No. 86**

ONEWEST BANK, FSB, :
Movant, :
vs. :
ROBERT STEPHEN YUHASZ, :
GRACE SMITH YUHASZ, and :
RONDA J. WINNECOUR, TRUSTEE, :
Respondents. :

**MOTION OF ONEWEST BANK, FSB
TO RECOVER UNCLAIMED FUNDS FROM THE COURT REGISTRY**

Now comes OneWest Bank, FSB, (hereinafter “OneWest”), by and through its attorneys, Phelan Hallinan LLP, and files the within Motion to Recover Unclaimed Funds from the Court Registry based upon the following:

1. These proceedings were commenced by the Debtor’s filing of a Voluntary Petition under Chapter 13 on October 31, 2007.
2. Movant, OneWest is a creditor of the Debtors by virtue of its status as a transferee of Proof of Claim number 6-1, originally filed by IndyMac Bank, as servicer for the mortgage of record, on December 11, 2007. The transfer of claim was filed of record with this court on January 8, 2013, at document number 92. A copy of the transfer of claim is attached hereto as Exhibit “A”.
3. Respondent, Ronda J. Winnecour, serves as the Chapter 13 Trustee in this case.

4. Respondents, Robert Stephen Yuhasz and Grace Smith Yuhasz, are the Debtors in this proceeding.

5. This matter is a core proceeding and this Court has jurisdiction pursuant to 28 U.S.C. Sec. 13341.

6. On November 14, 2012, the Chapter 13 Trustee being unable to locate IndyMac Bank, delivered to the Clerk a check representing unclaimed funds. The letter to the Clerk indicates that the unclaimed funds in the amount of \$23,800.31, are owed to IndyMac Bank. A copy of the letter from the Chapter 13 Trustee to the Clerk filed at document number 86 is attached hereto as Exhibit "B".

7. Movant believes that the funds to which it was entitled were deposited into the Court Registry pursuant to 11 U.S.C. Sec. 347(a) and cannot be disbursed by the Clerk from the Registry without an Order of Court pursuant to 28 U.S.C. Sec 2041 et seq.

8. Local Bankruptcy Rule 3011-1 provides that a request for disbursement of unclaimed funds is made by Motion pursuant to 28 U.S.C. Sec. 2042.

9. Pursuant to 28 U.S.C. Sec. 2042, Movant may petition the Court for release of the funds by providing notice to the United States Attorney and establishing proof of its right thereto.

10. Movant relies upon the Transfer of Claim and the Trustee's letter to the Clerk as evidence establishing proof of its entitlement to the unclaimed funds.

WHEREFORE, Movant, OneWest Bank, FSB, respectfully requests that this Honorable Court grant the Motion to Recover Unclaimed Funds and enter the attached Order directing the Clerk of Court to pay the sum of \$23,800.31 to Movant in care of its undersigned counsel.

Respectfully submitted,

PHELAN HALLINAN LLP

Date: February 7, 2013

/s/ James A. Prostko, Esquire

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CERTIFICATE OF SERVICE

I certify under penalty of perjury that on February 7, 2013, I served or caused to be served the Motion of OneWest Bank, FSB to Recover Unclaimed Funds, on the parties at the addresses shown below. The types of service made on the parties were: Electronic Notification and First Class Mail

Service by Electronic Notification

Stephen M. Otto
Law Office of Stephen M. Otto LLC
2 Woodland Road
Suite 201-A
Wyomissing, PA 19610
Email: steve@sottolaw.com

RONDA J. WINNECOUR, TRUSTEE
SUITE 3250, USX TOWER
600 GRANT STREET
PITTSBURGH, PA 15219

Service by First Class Mail

U.S. ATTORNEY
WESTERN DIST. OF PA
US POST OFFICE/ COURTHOUSE
700 GRANT ST., STE 400
PITTSBURGH, PA 15219

Robert and Grace Yuhasz
5002 Glenhurst Road
Pittsburgh, PA 15207

PHELAN HALLINAN LLP

Date: February 7, 2013

/s/ James A. Prostko, Esquire
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